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STATUTORY INSTRUMENTS

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**2009 No. 1059**

The Armed Forces Act 2006  
(Transitional Provisions etc) Order 2009

**PART 10**

SUMMARY DEALING

CHAPTER 1

Proceedings in progress at commencement

**Summary hearing where court-martial trial declined before commencement**

**54.**—(1) This article applies where—

- (a) a charge falls within article 46(3) (charges allocated for summary hearing); and
- (b) before commencement, the accused was given the opportunity to elect court-martial trial of the charge under section 76AA(1) of AA 1955 or AFA 1955 or section 52D(2) of NDA 1957 and declined to elect court-martial trial (or, having elected court-martial trial, withdrew the election with leave).

(2) Section 129(1) of AFA 2006 (giving of opportunity to elect Court Martial trial) must be complied with before the charge is heard summarily, despite the fact that the accused had been given the opportunity to elect court-martial trial.

(3) Where this article applies and the charge had begun to be heard summarily before commencement, in section 124(2) and 129 of AFA 2006 and paragraph (2) above references to hearing the charge summarily are to be read as references to proceeding with the hearing of the charge.

(4) The reference in paragraph (1) to a charge falling within article 46(3) includes a charge that—

- (a) would fall within article 46(3) but for the fact that it is an excluded charge; and
- (b) is an excluded charge only by reason of article 47(1)(a).

(5) A charge within paragraph (4) to which this article applies is to be regarded for the purposes of Part 5 of AFA 2006 as allocated for summary hearing.

(6) Nothing in this article enables an officer to hear a charge summarily, or continue to do so, where summary hearing of the charge is prohibited by article 48(3) or 49.

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 54.